

THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

-
WRIT PETITION No. 15464 OF 2000

-
Dated 12th September, 2007

Between:

Racharla Bayya Reddy

...Petitioner

And

The Mandal Revenue Officer,
Madanapalle Mandal,
Chittoor District.

...Respondent.

ORAL ORDER:

In this writ petition, the petitioner has questioned the notice issued by the Mandal Revenue Officer, Madanapalle dated 24.7.2000 in proceedings Roc.No.HDT/301/00 wherein the petitioner was directed to stop utilizing agricultural bore and remove the electric motor installed for that purpose in the area of Gundlapalle within three days.

This writ petition is filed mainly on the ground that under the provisions of the Andhra Pradesh Ground Water (Regulation for Drinking Water Purposes) Act, 1996 (for short “the Act”), there is no power conferred on the Mandal Revenue Officer, and, in the absence of any delegation of powers to him for issuing the impugned directions, the impugned order is without jurisdiction. Reliance is placed by the learned counsel for the petitioner on a decision of this court in **P.Buchanna vs. M.R.O.** ^[1] in support of the said contention.

Though there is a specific allegation in the affidavit to the effect that the said notice is without any jurisdiction, it is merely stated in the counter affidavit that there are instructions from the District Collector, who is the competent authority under the provisions of the Act.

In the decision relied on by the learned counsel for the petitioner stated supra, this court considered the scope and power of the Mandal Revenue Officer under the provisions of the A.P. Ground Water (Regulation for Drinking Water Purposes) Act, 1996 and held that in absence of notification of any appropriate authority, District Collector alone is the authority and the Mandal Revenue Officer cannot issue any directions for stopping the operations from

the borewell on the ground that the borewell dug by the petitioner is within the prohibited distance from public drinking water well, as per the provisions of the Act.

Even in the instant case also, it is clear from the counter affidavit that there is no notification by including the Mandal Revenue Officer as appropriate authority for exercise of the powers of the District Collector under the Act. Further, it is stated in the counter affidavit that the impugned order is only a show cause notice. But, a reading of the impugned order makes it clear that positive directions are issued for stopping the utilization of the agricultural bore and removal of the electric motor, and, therefore, it cannot be construed as a mere notice. Further, there is also no indication of issuing any prior notice or opportunity to the petitioner before issuing the impugned order.

For the reasons aforementioned, and in view of the judgment of this court referred supra, the impugned order is liable to be set aside and is accordingly set aside.

The writ petition is allowed. No costs.

12-9-2007

R.SUBHASH REDDY, J.

VR

[\[1\]](#) 2000(5)ALT 385